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DOCKET NO.: 2004-0043-PWS-E TCEO ID: RN101252732 CASE NO.: 11945

RESPONDENT NAME: SNI CORPORATION DBA BROADWAY FOOD MART

ORDER TYPE:		
<input checked="" type="checkbox"/> 1660 AGREED ORDER	<input type="checkbox"/> FINDINGS AGREED ORDER	<input type="checkbox"/> FINDINGS ORDER FOLLOWING SOAH HEARING
<input type="checkbox"/> FINDINGS DEFAULT ORDER	<input type="checkbox"/> SHUTDOWN ORDER	<input type="checkbox"/> IMMINENT AND SUBSTANTIAL ENDANGERMENT ORDER
<input type="checkbox"/> AMENDED ORDER	<input type="checkbox"/> EMERGENCY ORDER	
CASE TYPE:		
<input type="checkbox"/> AIR	<input type="checkbox"/> MULTI-MEDIA (check all that apply)	<input type="checkbox"/> INDUSTRIAL AND HAZARDOUS WASTE
<input checked="" type="checkbox"/> PUBLIC WATER SUPPLY	<input type="checkbox"/> PETROLEUM STORAGE TANKS	<input type="checkbox"/> OCCUPATIONAL CERTIFICATION
<input type="checkbox"/> WATER QUALITY	<input type="checkbox"/> SEWAGE SLUDGE	<input type="checkbox"/> UNDERGROUND INJECTION CONTROL
<input type="checkbox"/> MUNICIPAL SOLID WASTE	<input type="checkbox"/> RADIOACTIVE WASTE	<input type="checkbox"/> DRY CLEANER REGISTRATION
SITE WHERE VIOLATION(S) OCCURRED: 2682 Highway 71, Columbus, Colorado County TYPE OF OPERATION: Convenience store with a public water supply system SMALL BUSINESS: <input checked="" type="checkbox"/> Yes <input type="checkbox"/> No OTHER SIGNIFICANT MATTERS: There are no complaints. There is no record of additional pending enforcement actions regarding this facility location. INTERESTED PARTIES: No one other than the ED and the Respondent has expressed an interest in this matter. COMMENTS RECEIVED: The <i>Texas Register</i> comment period expired on July 14, 2008. No comments were received. CONTACTS AND MAILING LIST: TCEQ Attorney: Ms. Tracy Chandler, Litigation Division, MC 175, (512) 239-0629 Ms. Jennifer Cook, Litigation Division, MC 175, (512) 239-1873 TCEQ Enforcement Coordinator: Ms. Merrilee Gerberding-Hupp, Water Enforcement Division, MC 169, (512) 239-4490 TCEQ Regional Contact: Mr. Stephen Smith, Houston Regional Office, MC R-12, (713) 767-3500 Respondent: Ms. Ameena Saleem Bhaidani, President, SNI Corporation, 6223 Spencer's Glen Sugar Land, Texas 77479 Respondent's Attorney: Mr. William F. Harmeyer, Harmeyer & Associates, 475 Arena Tower One, 7322 Southwest Freeway Suite 475, Houston, Texas 77074, (713) 270-5552		

VIOLATION SUMMARY CHART:

VIOLATION INFORMATION	PENALTY CONSIDERATIONS	CORRECTIVE ACTIONS TAKEN/REQUIRED
<p>Type of Investigation: <input type="checkbox"/> Complaint <input checked="" type="checkbox"/> Routine <input type="checkbox"/> Enforcement Follow-up <input checked="" type="checkbox"/> Records Review</p> <p>Date of Complaints Relating to this Case: There are no complaints.</p> <p>Dates of Investigation Relating to this Case: May 27, 2003</p> <p>Date of NOE Relating to this Case: July 25, 2003 (NOE)</p> <p>Background Facts: The EDP RP was filed on September 14, 2004. The Respondent filed an Answer and the case was referred to SOAH on April 5, 2005. An Agreed Order was signed by the Respondent on June 22, 2006.</p> <p>The Respondent in this case does not owe any other penalties according to the Administrative Penalty Database Report.</p> <p>PWS</p> <ol style="list-style-type: none"> Failed to collect and submit routine bacteriological samples and repeat samples after a coliform positive result [30 TEX. ADMIN. CODE § 290.109(c)(2) and (3) and TEX. HEALTH & SAFETY CODE § 341.033(d)]. Failed to use a method that conforms to the requirements of 30 TEX. ADMIN. CODE § 290.119 relating to analytical procedures [30 TEX. ADMIN. CODE § 290.110(d)(3)]. (NOTE: 30 TEX. ADMIN. CODE § 290.110(d)(3) was recodified as 30 TEX. ADMIN. CODE § 290.110(d)(1)(C) effective January 9, 2008, by 33 Tex. Reg. 198). Failed to conduct and record weekly chlorine residual tests [30 TEX. ADMIN. CODE § 290.110(c)(5)(B)]. (NOTE: 30 TEX. ADMIN. CODE § 290.110(c)(5)(B) was recodified as 30 TEX. ADMIN. CODE § 290.110(c)(4)(A) effective January 9, 2008, by 33 Tex. Reg. 198). Failed to post Public Notices for violations of the maximum contaminant limit for microbial contaminants (coliform positive sample results) [30 TEX. ADMIN. CODE § 290.122(a)]. Failed to locate ground water sources so there will be no danger of pollution from unsanitary surroundings [30 TEX. ADMIN. CODE § 290.41 (c)(1)(A)]. Failed to provide a sanitary control easement for the well [30 TEX. ADMIN. CODE § 290.41(c)(1)(F)]. 	<p>*Initial Calculated Penalty: \$5,250</p> <p>Total Assessed: \$4,950</p> <p>Total Deferred: \$0</p> <p>Total Paid/Due to General Revenue: \$190/\$4,760*</p> <p>The Respondent has paid \$190 of the administrative penalty. The remaining amount of \$4,760 shall be payable in 35 monthly payments of \$136 each.</p> <p>Site Compliance History Classification N/A</p> <p>Person Compliance History Classification N/A</p> <p>Major Source: <input type="checkbox"/> Yes <input checked="" type="checkbox"/> No</p> <p>Applicable Penalty Policy: September 2002</p> <p>*Explanation of Initial Calculated Penalty Reduction: The penalty was reduced by \$300 in consideration of the risk of litigation.</p>	<p>Ordering Provisions:</p> <p>The Respondent shall undertake the following technical requirements:</p> <ol style="list-style-type: none"> Immediately begin monitoring the chlorine residual at representative locations in the distribution system at least once every seven days. Within 15 days, begin weekly Residual Chlorine Testing. Within 90 days: <ol style="list-style-type: none"> Obtain an exception to 30 TEX. ADMIN. CODE § 290.41 (c)(1)(A), (relating to well located near underground storage tanks); and Obtain an exception to 30 TEX. ADMIN. CODE § 290.41 (c)(1)(F), (relating to sanitary control easements). Within 105 days, submit written certification and detailed supporting documentation, including photographs, receipts, and other records to demonstrate compliance of the above.



Penalty Calculation Worksheet (PCW)

Policy Revision 2 (09/02)

PCW Revision 2/10/2004

DATES

PCW 28-May-2008

Screening 14-Jan-2004

Priority Due 13-May-2004

EPA Due

RESPONDENT INFORMATION

Respondent SNI Corporation dba Broadway Food Mart

Respondent/Site ID No(s) RN101252732; Public Water Sytem ID No. 0450065

Facility/Site Region 12 - Houston

Major/Minor Source Minor

CASE INFORMATION

Enf./Case ID No(s) CCEDS Case No. 11945

Docket No. 2004-0043-PWS-E

No. Violations 6

Case Priority 3

Order Type 1660 with deferral

Enf. Coordinator Merrilee Hupp

EC's Team Enforcement Team 1

Media Program(s) Public Water Supply

Admin. Penalty \$ Limit Minimum \$50

Maximum \$1,000

Penalty Calculation Section

TOTAL BASE PENALTY (Sum of violation base penalties)

Subtotal 1 \$5,250

ADJUSTMENTS (+/-) TO SUBTOTAL 1

Subtotals 2-7 are obtained by multiplying the Total Base Penalty (Subtotal 1) by the indicated percentage.

Compliance History

0% Enhancement

Subtotals 2, 3 & 7

+

\$0

Notes

No increase due to Compliance History.

+

Culpability

0% Enhancement

Subtotal 4

\$0

No

Select Yes/No

Notes

Respondent does not meet culpability requirement.

+

Good Faith Effort to Comply

0% Reduction

Subtotal 5

\$0

Before NOV

NOV to EDRP/Settlement Offer

Extraordinary

Ordinary

None of the above

X

(mark with small x)

+

Notes

Respondent is not yet in compliance.

Economic Benefit

0% Enhancement*

Subtotal 6

\$0

\$2,578

Total EB Amounts

*Capped at the Total EB \$ Amount

\$3,175

Approx. Cost of Compliance

=

SUM OF SUBTOTALS 1-7

Final Subtotal

\$5,250

OTHER FACTORS AS JUSTICE MAY REQUIRE

Adjustment

\$0

Reduces or enhances the Final Subtotal by the indicated percentage.

(enter number only; e.g. -30 for -30%)

Notes

=

Final Penalty Amount

\$5,250

STATUTORY LIMIT ADJUSTMENT

Final Assessed Penalty

\$5,250

DEFERRAL

Deferral

Reduction

Adjustment

\$0

Reduces the Final Assessed Penalty by the indicated percentage.

(enter number only; e.g. 20 for 20% reduction)

Notes

No deferral will/be offered because the Respondent failed to settle within the 60 day settlement period.

=

PAYABLE PENALTY

\$5,250

Screening Date 14-Jan-2004 Docket Number 2004-0043-PWS-E PCW
 Respondent SNI Corporation dba Broadway Food Mart Policy Revision 2 (09/02)
 Case ID No. CCEDS Case No. 11945 PCW Revision 2/10/2004
 Respondent/Site ID No. RN101252732; Public Water Sytem ID No. 0450065
 Media [Statute] Public Water Supply
 Enf. Coordinator Merrilee Hupp
 Site Address 2682 HWY 71, Columbus, Colorado County

Compliance History Worksheet

>> Compliance History Site Enhancement (Subtotal 2)

Component	Number of...	Enter Number Here	Adjust.
NOVs	Written NOVs with same or similar violations as those in the current enforcement action (number of NOVs meeting criteria)	0	0%
	Other written NOVs	0	0%
Orders	Any agreed final enforcement orders containing a denial of liability (number of orders meeting criteria)	0	0%
	Any adjudicated final enforcement orders, agreed final enforcement orders without a denial of liability, or default orders of this state or the federal government, or any final prohibitory emergency orders issued by the commission	0	0%
Judgments and Consent Decrees	Any non-adjudicated final court judgments or consent decrees containing a denial of liability of this state or the federal government (number of judgements or consent decrees meeting criteria)	0	0%
	Any adjudicated final court judgments and default judgments, or non-adjudicated final court judgments or consent decrees without a denial of liability, of this state or the federal government	0	0%
Convictions	Any criminal convictions of this state or the federal government (number of counts)	0	0%
Emissions	Chronic excessive emissions events (number of events)	0	0%
Audits	Letters notifying the executive director of an intended audit conducted under the Texas Environmental, Health, and Safety Audit Privilege Act, 74th Legislature, 1995 (number of audits for which notices were submitted)	0	0%
	Disclosures of violations under the Texas Environmental, Health, and Safety Audit Privilege Act, 74th Legislature, 1995 (number of audits for which violations were disclosed)	0	0%
Please enter Yes or No			
Other	Environmental management systems in place for one year or more	No	0%
	Voluntary on-site compliance assessments conducted by the executive director under a special assistance program	No	0%
	Participation in a voluntary pollution reduction program	No	0%
	Early compliance with, or offer of a product that meets future state or federal government environmental requirements	No	0%

Adjustment Percentage (Subtotal 2) 0%

>> Repeat Violator (Subtotal 3)

 Select Yes/No

Adjustment Percentage (Subtotal 3) 0%

>> Compliance History Person Classification (Subtotal 7)

 Select High, Average or Poor

Adjustment Percentage (Subtotal 7) 0%

Compliance History Summary

 Compliance
History
Notes

No increase due to Compliance History.

Total Adjustment Percentage (Subtotals 2, 3 & 7) 0%

Screening Date	14-Jan-04	Docket Number	2004-0043-PWS-E	PCW
Respondent	SNI Corporation dba Broadway Food Mart			Policy Revision 2 (09/02)
Case ID No.	CCEDS Case No. 11945			PCW Revision 2/10/2004
Respondent/Site ID No.	RN101252732; Public Water Sytem ID No. 0450065			
Media [Statute]	Public Water Supply			
Enf. Coordinator	Merrilee Hupp			
Violation Number	1			
Primary Rule Cite	30 TAC § 290.109(c)(2) and (3) and Texas Health and Safety Code § 341.033(d)			
Secondary Cite(s)				
Violation Description	Failure to collect and submit routine bacteriological samples and repeat samples after a coliform positive result as required.			

Base Penalty \$1,000

» Environmental, Property and Human Health Matrix

		Harm			
	Release	Major	Moderate	Minor	
OR	Actual				
	Potential	x			Percent 25%

» Programmatic Matrix

	Falsification	Major	Moderate	Minor	
OR					Percent

Matrix Notes

Failure to take samples for bacteriological analysis may result in undetected contaminated water being distributed to the public resulting in illness.

Adjustment -\$750

Base Penalty Subtotal \$250

Violation Events

Number of Violation Events 5

mark only one; use small x

daily	
monthly	x
quarterly	
semiannual	
annual	
single event	

Violation Base Penalty \$1,250

Events Notes

Five monthly events are recommended based on the Respondent's failure to collect and submit a sample for bacteriological analysis for June 2002, September 2002, December 2003, May 2003 and June 2003.

Economic Benefit (EB) for this violation

Statutory Limit Test

Estimated EB Amount (\$) \$66

Violation Final Penalty total \$1,250

This Violation Final Assessed Penalty (adjusted for limits) \$1,250

Economic Benefit Worksheet

Respondent SNI Corporation dba Broadway Food Mart
ID Number(s) CCEDS Case No. 11945
Media [Statute] Public Water Supply
Violation Number 1

Percent Interest	Years of Depreciation
5.0	15

Item Description	Item Cost No commas or \$	Date Required	Final Date	Yrs	Interest Saved	Onetime Costs	EB Amount
Delayed Costs							
Equipment				0.0	\$0	\$0	\$0
Buildings				0.0	\$0	\$0	\$0
Other (As needed)				0.0	\$0	\$0	\$0
Engineering/construction				0.0	\$0	\$0	\$0
Land				0.0	\$0	n/a	\$0
Record Keeping System				0.0	\$0	n/a	\$0
Training/Sampling				0.0	\$0	n/a	\$0
Remediation/Disposal				0.0	\$0	n/a	\$0
Permit Costs				0.0	\$0	n/a	\$0
Other (As Needed)				0.0	\$0	n/a	\$0

Notes for DELAYED costs

Avoided Costs

ANNUALIZE [1] avoided costs before entering item (except for one-time avoided costs)

Disposal				0.0	\$0	\$0	\$0
Personnel				0.0	\$0	\$0	\$0
Inspection/Reporting/Sampling	\$250	1-Jun-2002	1-Sep-2002	0.3	\$3	\$63	\$66
Supplies/equip				0.0	\$0	\$0	\$0
Financial Assurance [2]				0.0	\$0	\$0	\$0
ONE-TIME avoided costs [3]				0.0	\$0	\$0	\$0
Other (as needed)				0.0	\$0	\$0	\$0

Notes for AVOIDED costs

Approximate cost to collect and submit routine bacteriological samples.

Approx Cost of Compliance **\$250****TOTAL** **\$66**

Screening Date	14-Jan-04	Docket Number	2004-0043-PWS-E	PCW
Respondent	SNI Corporation dba Broadway Food Mart			Policy Revision 2 (09/02)
Case ID No.	CCEDS Case No. 11945			PCW Revision 2/10/2004
Respondent/Site ID No.	RN101252732; Public Water Sytem ID No. 0450065			
Media [Statute]	Public Water Supply			
Enf. Coordinator	Merrilee Hupp			
Violation Number	<input type="text" value="2"/>			
Primary Rule Cite	<input type="text" value="30 Tex. Admin. Code § 290.110(d)(3)"/>			
Secondary Cite(s)	<input type="text"/>			
Violation Description	<input type="text" value="Failure to use a method that conforms to the requirements of 30 Tex. Admin. Code § 290.119 relating to analytical procedures. Specifically, the respondent failed to possess a chlorine test kit that uses the DPD calorimetric method to determine free chlorine residual levels at various locations of the distribution system."/>			
		Base Penalty	<input type="text" value="\$1,000"/>	

» Environmental, Property and Human Health Matrix

		Harm			
	Release	Major	Moderate	Minor	
OR	Actual	<input type="text"/>	<input type="text"/>	<input type="text"/>	
	Potential	<input type="text"/>	<input checked="" type="text" value="x"/>	<input type="text"/>	Percent <input type="text" value="10%"/>

» Programmatic Matrix

	Falsification	Major	Moderate	Minor	
OR	<input type="text"/>	<input type="text"/>	<input type="text"/>	<input type="text"/>	Percent <input type="text"/>

Matrix Notes

Adjustment Base Penalty Subtotal

Violation Events

Number of Violation Events

mark only one; use small x

daily	<input type="text"/>
monthly	<input type="text"/>
quarterly	<input checked="" type="text" value="x"/>
semiannual	<input type="text"/>
annual	<input type="text"/>
single event	<input type="text"/>

Violation Base Penalty

Events Notes

Economic Benefit (EB) for this violation

Statutory Limit Test

Estimated EB Amount (\$) Violation Final Penalty total This Violation Final Assessed Penalty (adjusted for limits)

Economic Benefit Worksheet**Respondent** SNI Corporation dba Broadway Food Mart**ID Number(s)** CCEDS Case No. 11945**Media [Statute]** Public Water Supply**Violation Number** 2

Percent Interest	Years of Depreciation
5.0	15

Item Description	Item Cost No commas or \$	Date Required	Final Date	Yrs	Interest Saved	Onetime Costs	EB Amount
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Delayed Costs

Equipment				0.0	\$0	\$0	\$0
Buildings				0.0	\$0	\$0	\$0
Other (As needed)				0.0	\$0	\$0	\$0
Engineering/construction				0.0	\$0	\$0	\$0
Land				0.0	\$0	n/a	\$0
Record Keeping System				0.0	\$0	n/a	\$0
Training/Sampling				0.0	\$0	n/a	\$0
Remediation/Disposal				0.0	\$0	n/a	\$0
Permit Costs				0.0	\$0	n/a	\$0
Other (As Needed)	\$375	27-May-2003	15-Nov-2004	1.5	\$28	n/a	\$28

Notes for DELAYED costs

Approximate cost to purchase proper equipment for analytical testing using a DPD method.

Avoided Costs**ANNUALIZE [1] avoided costs before entering item (except for one-time avoided costs)**

Disposal				0.0	\$0	\$0	\$0
Personnel				0.0	\$0	\$0	\$0
Inspection/Reporting/Sampling				0.0	\$0	\$0	\$0
Supplies/equip				0.0	\$0	\$0	\$0
Financial Assurance [2]				0.0	\$0	\$0	\$0
ONE-TIME avoided costs [3]				0.0	\$0	\$0	\$0
Other (as needed)				0.0	\$0	\$0	\$0

Notes for AVOIDED costs**Approx Cost of Compliance** \$375**TOTAL** \$28

Screening Date 14-Jan-04

Docket Number 2004-0043-PWS-E

PCW

Respondent SNI Corporation dba Broadway Food Mart

Policy Revision 2 (09/02)

Case ID No. CCEDS Case No. 11945

PCW Revision 2/10/2004

Respondent/Site ID No. RN101252732; Public Water Sytem ID No. 0450065

Media [Statute] Public Water Supply

Enf. Coordinator Merrilee Hupp

Violation Number 3

Primary Rule Cite 30 TAC § 290.110(c)(5)(B)

Secondary Cite(s)

Violation Description

Failed to conduct and record weekly chlorine residual tests.

Base Penalty \$1,000

» Environmental, Property and Human Health Matrix

Harm

Release	Major	Moderate	Minor
Actual			
Potential	x		

Percent 25%

» Programmatic Matrix

Falsification	Major	Moderate	Minor
OR			

Percent

Matrix Notes

Failure to conduct weekly chlorine residual tests could expose pollutants which would exceed levels that are protective of human health.

Adjustment -\$750

Base Penalty Subtotal \$250

Violation Events

Number of Violation Events 12

mark only one; use small x

daily	
monthly	x
quarterly	
semiannual	
annual	
single event	

Violation Base Penalty \$3,000

Events Notes

Twelve monthly events are recommended based on documentation of the violation during the May 27, 2003 investigation until the 60 day settlement termination date of May 9, 2004.

Economic Benefit (EB) for this violation

Statutory Limit Test

Estimated EB Amount (\$) \$774

Violation Final Penalty total \$3,000

This Violation Final Assessed Penalty (adjusted for limits) \$3,000

Economic Benefit Worksheet

Respondent SNI Corporation dba Broadway Food Mart
 ID Number(s) CCEDS Case No. 11945
 Media [Statute] Public Water Supply
 Violation Number 3

Percent Interest	Years of Depreciation
5.0	15

Item Description	Item Cost No commas or \$	Date Required	Final Date	Yrs	Interest Saved	Onetime Costs	EB Amount
Delayed Costs							
Equipment				0.0	\$0	\$0	\$0
Buildings				0.0	\$0	\$0	\$0
Other (As needed)				0.0	\$0	\$0	\$0
Engineering/construction				0.0	\$0	\$0	\$0
Land				0.0	\$0	n/a	\$0
Record Keeping System				0.0	\$0	n/a	\$0
Training/Sampling				0.0	\$0	n/a	\$0
Remediation/Disposal				0.0	\$0	n/a	\$0
Permit Costs				0.0	\$0	n/a	\$0
Other (As Needed)				0.0	\$0	n/a	\$0

Notes for DELAYED costs

Avoided Costs

ANNUALIZE [1] avoided costs before entering item (except for one-time avoided costs)

Disposal				0.0	\$0	\$0	\$0
Personnel				0.0	\$0	\$0	\$0
Inspection/Reporting/Sampling	\$500	27-May-2003	15-Nov-2004	1.5	\$37	\$737	\$774
Supplies/equip				0.0	\$0	\$0	\$0
Financial Assurance [2]				0.0	\$0	\$0	\$0
ONE-TIME avoided costs [3]				0.0	\$0	\$0	\$0
Other (as needed)				0.0	\$0	\$0	\$0

Notes for AVOIDED costs

Estimated cost to conduct and record weekly chlorine residual tests.

Approx Cost of Compliance \$500

TOTAL \$774

Screening Date 14-Jan-04

Docket Number 2004-0043-PWS-E

PCW

Respondent SNI Corporation dba Broadway Food Mart

Policy Revision 2 (09/02)

Case ID No. CCEDS Case No. 11945

PCW Revision 2/10/2004

Respondent/Site ID No. RN101252732; Public Water Sytem ID No. 0450065

Media [Statute] Public Water Supply

Enf. Coordinator Merrilee Hupp

Violation Number 4

Primary Rule Cite 30 Tex. Admin. Code § 290.122(a)

Secondary Cite(s)

Violation Description Failure to post Public Notices for violations of the maximum contaminant limit (MCL) for microbial contaminants (coliform positive sample results).

Base Penalty \$1,000

» Environmental, Property and Human Health Matrix

Harm

Release	Major	Moderate	Minor
Actual			
Potential			

Percent

» Programmatic Matrix

Falsification	Major	Moderate	Minor
OR	x		

Percent

10%

Matrix Notes

100% of the requirement was not met.

Adjustment -\$900

Base Penalty Subtotal \$100

Violation Events

Number of Violation Events 3

mark only one; use small x

daily	
monthly	
quarterly	
semiannual	
annual	
single event	x

Violation Base Penalty \$300

Events Notes

Three single events are recommended based on the failure to post notices for the months of May 2003, June 2003 and December 2003.

Economic Benefit (EB) for this violation

Statutory Limit Test

Estimated EB Amount (\$) \$53

Violation Final Penalty total \$300

This Violation Final Assessed Penalty (adjusted for limits) \$300

Economic Benefit Worksheet

Respondent SNI Corporation dba Broadway Food Mart
ID Number(s) CCEDS Case No. 11945
Media [Statute] Public Water Supply
Violation Number 4

Percent Interest	Years of Depreciation
5.0	15

Item Description	Item Cost No commas or \$	Date Required	Final Date	Yrs	Interest Saved	Onetime Costs	EB Amount
Delayed Costs							
Equipment				0.0	\$0	\$0	\$0
Buildings				0.0	\$0	\$0	\$0
Other (As needed)				0.0	\$0	\$0	\$0
Engineering/construction				0.0	\$0	\$0	\$0
Land				0.0	\$0	n/a	\$0
Record Keeping System				0.0	\$0	n/a	\$0
Training/Sampling				0.0	\$0	n/a	\$0
Remediation/Disposal				0.0	\$0	n/a	\$0
Permit Costs				0.0	\$0	n/a	\$0
Other (As Needed)				0.0	\$0	n/a	\$0

Notes for DELAYED costs

Avoided Costs

ANNUALIZE [1] avoided costs before entering item (except for one-time avoided costs)

Disposal				0.0	\$0	\$0	\$0
Personnel				0.0	\$0	\$0	\$0
Inspection/Reporting/Sampling				0.0	\$0	\$0	\$0
Supplies/equip				0.0	\$0	\$0	\$0
Financial Assurance [2]				0.0	\$0	\$0	\$0
ONE-TIME avoided costs [3]				0.0	\$0	\$0	\$0
Other (as needed)	\$50	30-May-2003	31-Jan-2004	1.0	\$3	\$50	\$53

Notes for AVOIDED costs

Estimated cost to post the required notice for the month of May 2003. Date required is the month the notice should have posted. Final date is the following month when notice would no longer be required because the system was back in compliance.

Approx Cost of Compliance TOTAL

Screening Date	14-Jan-04	Docket Number	2004-0043-PWS-E	PCW
Respondent	SNI Corporation dba Broadway Food Mart			Policy Revision 2 (09/02)
Case ID No.	CCEDS Case No. 11945			PCW Revision 2/10/2004
Respondent/Site ID No.	RN101252732; Public Water Sytem ID No. 0450065			
Media [Statute]	Public Water Supply			
Enf. Coordinator	Merrilee Hupp			
Violation Number	5			
Primary Rule Cite	30 Tex. Admin. Code § 290.41(c)(1)(A)			
Secondary Cite(s)				
Violation Description	Failure to locate ground water sources so there will be no danger of pollution from unsanitary surroundings. Specifically, the well must not be located within 150 feet of an underground fuel storage tank.			
	Base Penalty	\$1,000		

» Environmental, Property and Human Health Matrix

		Harm			
	Release	Major	Moderate	Minor	
OR	Actual				
	Potential	x			Percent 25%

» Programmatic Matrix

	Falsification	Major	Moderate	Minor	
OR					Percent

Matrix Notes

Failure to locate the well at least 150 feet away from the underground fuel storage tank may expose the well to significant amounts of pollutants which would exceed levels that are protective of human health.

Adjustment -\$750
Base Penalty Subtotal \$250

Violation Events

Number of Violation Events 1

mark only one; use small x

daily	
monthly	
quarterly	
semiannual	
annual	x
single event	

Violation Base Penalty \$250

Events Notes

One yearly event is recommended based on documentation of the violation during the May 27, 2003 investigation through the screening date of January 14, 2004, to make the penalty commensurate with the situation.

Economic Benefit (EB) for this violation

Statutory Limit Test

Estimated EB Amount (\$) \$1,591

Violation Final Penalty total \$250

This Violation Final Assessed Penalty (adjusted for limits) \$250

Economic Benefit Worksheet

Respondent SNI Corporation dba Broadway Food Mart

ID Number(s) CCEDS Case No. 11945

Media [Statute] Public Water Supply

Violation Number 5

Percent Interest	Years of Depreciation
5.0	15

Item Description	Item Cost No commas or \$	Date Required	Final Date	Yrs	Interest Saved	Onetime Costs	EB Amount
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Delayed Costs

Equipment				0.0	\$0	\$0	\$0
Buildings				0.0	\$0	\$0	\$0
Other (As needed)				0.0	\$0	\$0	\$0
Engineering/construction				0.0	\$0	\$0	\$0
Land				0.0	\$0	n/a	\$0
Record Keeping System				0.0	\$0	n/a	\$0
Training/Sampling				0.0	\$0	n/a	\$0
Remediation/Disposal				0.0	\$0	n/a	\$0
Permit Costs				0.0	\$0	n/a	\$0
Other (As Needed)				0.0	\$0	n/a	\$0

Notes for DELAYED costs

Avoided Costs

ANNUALIZE [1] avoided costs before entering item (except for one-time avoided costs)

Disposal				0.0	\$0	\$0	\$0
Personnel				0.0	\$0	\$0	\$0
Inspection/Reporting/Sampling	\$1,000	27-May-2003	30-Nov-2004	1.5	\$76	\$1,515	\$1,591
Supplies/equip				0.0	\$0	\$0	\$0
Financial Assurance [2]				0.0	\$0	\$0	\$0
ONE-TIME avoided costs [3]				0.0	\$0	\$0	\$0
Other (as needed)				0.0	\$0	\$0	\$0

Notes for AVOIDED costs

Estimated cost to conduct leak detection sampling.

Approx Cost of Compliance \$1,000

TOTAL \$1,591

Screening Date 14-Jan-04

Docket Number 2004-0043-PWS-E

PCW

Respondent SNI Corporation dba Broadway Food Mart

Policy Revision 2 (09/02)

Case ID No. CCEDS Case No. 11945

PCW Revision 2/10/2004

Respondent/Site ID No. RN101252732; Public Water Sytem ID No. 0450065

Media [Statute] Public Water Supply

Enf. Coordinator Merrilee Hupp

Violation Number 6

Primary Rule Cite 30 TAC § 290.41(c)(1)(F)

Secondary Cite(s)

Violation Description

Failure to provide a sanitary control easement for the well, as documented during the May 27, 2003 investigation.

Base Penalty \$1,000

» Environmental, Property and Human Health Matrix

Harm

Release	Major	Moderate	Minor
Actual			
Potential			x

Percent 5%

» Programmatic Matrix

Falsification	Major	Moderate	Minor

Percent

Matrix Notes

Failure to secure the necessary sanitary easement could expose the system to an insignificant amount of pollutants that would not exceed levels that are protective of human health.

Adjustment -\$950

Base Penalty Subtotal \$50

Violation Events

Number of Violation Events 1

mark only one; use small x

daily	
monthly	
quarterly	
semiannual	
annual	
single event	x

Violation Base Penalty \$50

Events Notes

A single event is recommended based on the May 27, 2003 investigation.

Economic Benefit (EB) for this violation

Statutory Limit Test

Estimated EB Amount (\$) \$67

Violation Final Penalty total \$50

This Violation Final Assessed Penalty (adjusted for limits) \$50

Economic Benefit Worksheet

Respondent SNI Corporation dba Broadway Food Mart
ID Number(s) CCEDS Case No. 11945
Media [Statute] Public Water Supply
Violation Number 6

Percent Interest	Years of Depreciation
5.0	15

Item Description	Item Cost No commas or \$	Date Required	Final Date	Yrs	Interest Saved	Onetime Costs	EB Amount
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Delayed Costs

Equipment				0.0	\$0	\$0	\$0
Buildings				0.0	\$0	\$0	\$0
Other (As needed)				0.0	\$0	\$0	\$0
Engineering/construction				0.0	\$0	\$0	\$0
Land				0.0	\$0	n/a	\$0
Record Keeping System				0.0	\$0	n/a	\$0
Training/Sampling				0.0	\$0	n/a	\$0
Remediation/Disposal				0.0	\$0	n/a	\$0
Permit Costs				0.0	\$0	n/a	\$0
Other (As Needed)	\$1,000	27-May-2003	30-Sep-2004	1.3	\$67	n/a	\$67

Notes for DELAYED costs

Estimated costs necessary to investigate, prep, and record a well sanitary easement, from the date of the investigation through the anticipated date of compliance.

Avoided Costs

ANNUALIZE [1] avoided costs before entering item (except for one-time avoided costs)

Disposal				0.0	\$0	\$0	\$0
Personnel				0.0	\$0	\$0	\$0
Inspection/Reporting/Sampling				0.0	\$0	\$0	\$0
Supplies/equip				0.0	\$0	\$0	\$0
Financial Assurance [2]				0.0	\$0	\$0	\$0
ONE-TIME avoided costs [3]				0.0	\$0	\$0	\$0
Other (as needed)				0.0	\$0	\$0	\$0

Notes for AVOIDED costs

Approx Cost of Compliance \$1,000

TOTAL \$67

Compliance History

Customer/Respondent/Owner-Operator:	CN601253594	SNI CORP DBA BROADWAY FOOD MART	Classification: HIGH	Rating: 0.000
Regulated Entity:	RN101252732	BROADWAY FOOD MART	Classification: HIGH	Site Rating: 0.00
ID Number(s):	PETROLEUM STORAGE TANK REGISTRATION	REGISTRATION	74235	
	PUBLIC WATER SYSTEM/SUPPLY	REGISTRATION	0450065	
Location:	2682 HWY 71, COLUMBUS, TX, 78934		Rating Date: 9/1/03 Repeat Violator: NO	
TCEQ Region:	REGION 12 - HOUSTON			
Date Compliance History Prepared:	July 28, 2004			
Agency Decision Requiring Compliance History:	Enforcement			
Compliance Period:	July 21, 1999 to July 21, 2004			

TCEQ Staff Member to Contact for Additional Information Regarding this Compliance History

Name: David Van Soest Phone: (512) 239-0468

Site Compliance History Components

- | | |
|--|------------|
| 1. Has the site been in existence and/or operation for the full five year compliance period? | Yes |
| 2. Has there been a (known) change in ownership of the site during the compliance period? | No |
| 3. If Yes, who is the current owner? | <u>N/A</u> |
| 4. If Yes, who was/were the prior owner(s)? | <u>N/A</u> |
| 5. When did the change(s) in ownership occur? | <u>N/A</u> |

Components (Multimedia) for the Site :

- A. Final Enforcement Orders, court judgements, and consent decrees of the state of Texas and the federal government.

N/A

- B. Any criminal convictions of the state of Texas and the federal government.

N/A

- C. Chronic excessive emissions events.

N/A

- D. The approval dates of investigations. (CCEDS Inv. Track. No.)

1 01/13/2004 (259532)

2 07/20/2004 (280550)

3 07/25/2003 (126098)

- E. Written notices of violations (NOV). (CCEDS Inv. Track. No.)

N/A

- F. Environmental audits.

N/A

- G. Type of environmental management systems (EMSs).

N/A

- H. Voluntary on-site compliance assessment dates.

N/A

- I. Participation in a voluntary pollution reduction program.

N/A

- J. Early compliance.

N/A

Sites Outside of Texas

N/A

TEXAS COMMISSION ON ENVIRONMENTAL QUALITY



**IN THE MATTER OF
AN ENFORCEMENT ACTION
AGAINST SNI CORPORATION
DBA BROADWAY FOOD MART
TCEQ ID NO. 0450065
RN101252732**

§
§
§
§
§
§
§

**BEFORE THE
TEXAS COMMISSION ON
ENVIRONMENTAL QUALITY**

AGREED ORDER DOCKET NO. 2004-0043-PWS-E

I. JURISDICTION AND STIPULATIONS

At its _____ agenda, the Texas Commission on Environmental Quality ("Commission" or "TCEQ") considered this agreement of the parties, resolving an enforcement action regarding SNI Corporation dba Broadway Food Mart ("SNI") under the authority of, TEX. HEALTH & SAFETY CODE ch. 341 and 30 TEX. ADMIN. CODE ch. 290. The Executive Director of the TCEQ, represented by the Litigation Division, and SNI, represented by William F. Harmeyer of the law firm of William F. Harmeyer and Associates, appear before the Commission and together stipulate that:

1. SNI owns and operates a convenience store and public water supply system located at 2682 Highway 71, Columbus, Colorado County, Texas (the "Facility"). The Facility has 1 service connection and serves at least 25 people per day for at least 60 days per year.
2. This Agreed Order is entered into pursuant to TEX. HEALTH & SAFETY CODE § 341.049. The Commission has jurisdiction of this matter pursuant to TEX. HEALTH & SAFETY CODE § 341.031 because it alleges violations of TEX. HEALTH & SAFETY CODE ch. 341 and the TCEQ rules.
3. The Commission and SNI agree that the Commission has jurisdiction to enter this Agreed Order, and that SNI is subject to the Commission's jurisdiction.
4. SNI received notice of the violations alleged in Section II ("Allegations") on or about July 30, 2003.
5. The occurrence of any violation is in dispute and the entry of this Agreed Order shall not constitute an admission by SNI of any violation alleged in Section II ("Allegations"), nor of any statute or rule.

6. An administrative penalty in the amount of four thousand nine hundred fifty dollars (\$4,950.00) is assessed by the Commission in settlement of the violations alleged in Section II ("Allegations"). SNI has paid one hundred ninety dollars (\$190.00) of the administrative penalty. The remaining amount of four thousand seven hundred sixty dollars (\$4,760.00) of the administrative penalty shall be payable in thirty-five (35) payments of one hundred thirty-six dollars (\$136.00) each. The first monthly payment shall be paid within 30 days after the effective date of this Agreed Order. The subsequent payments shall each be paid not later than 30 days following the due date of the previous payment until paid in full. If SNI fails to timely and satisfactorily comply with the payment requirements of this Agreed Order, including the payment schedule, the Executive Director may, at his option, accelerate the maturity of the remaining installments, in which event the unpaid balance shall become immediately due and payable without demand or notice. In addition, the failure of SNI to meet the payment schedule of this Agreed Order constitutes the failure by SNI to timely and satisfactorily comply with all of the terms of this Agreed Order.
7. Any notice and procedures which might otherwise be authorized or required in this action are waived in the interest of a more timely resolution of the matter.
8. The Executive Director of the TCEQ and SNI have agreed on a settlement of the matters alleged in this enforcement action, subject to the approval of the Commission.
9. The Executive Director may, without further notice or hearing, refer this matter to the Office of the Attorney General of the State of Texas ("OAG") for further enforcement proceedings if the Executive Director determines that SNI has not complied with one or more of the terms or conditions in this Agreed Order.
10. This Agreed Order shall terminate five years from its effective date or upon compliance with all the terms and conditions set forth in this Agreed Order, whichever is later.
11. The provisions of this Agreed Order are deemed severable and, if a court of competent jurisdiction or other appropriate authority deems any provision of this Agreed Order unenforceable, the remaining provisions shall be valid and enforceable.

II. ALLEGATIONS

SNI is alleged to have violated:

1. 30 TEX. ADMIN. CODE § 290.109(c)(2) and (3), and TEX. HEALTH & SAFETY CODE § 341.033(d) by failing to collect and submit routine bacteriological samples and repeat samples after a coliform positive result as required.

2. 30 TEX. ADMIN. CODE § 290.110(d)(3)¹ for failing to use a method that conforms to the requirements of 30 TEX. ADMIN. CODE § 290.119 relating to analytical procedures. Specifically, the respondent failed to possess a chlorine test kit that uses the DPD colorimetric method to determine free chlorine residual levels at various locations of the distribution system, as documented during an investigation conducted on May 27, 2003.
3. 30 TEX. ADMIN. CODE § 290.110(c)(5)(B)² for failing to conduct and record weekly chlorine residual tests, as documented during an investigation conducted on May 27, 2003.
4. 30 TEX. ADMIN. CODE § 290.122(a) for failing to post Public Notices for violations of the maximum contaminant limit for microbial contaminants (coliform positive sample results) as documented during an investigation conducted on May 27, 2003.
5. 30 TEX. ADMIN. CODE § 290.41(c)(1)(A) by failing to locate ground water sources so there will be no danger of pollution from unsanitary surroundings. Specifically, the well must not be located within 150 feet of an underground fuel storage tank, as documented during an investigation conducted on May 27, 2003.
6. 30 TEX. ADMIN. CODE § 290.41(c)(1)(F) by failing to provide a sanitary control easement for the well, as documented during the May 27, 2003 investigation.

III. DENIALS

SNI generally denies each allegation in Section II ("Allegations").

¹ 30 TEX. ADMIN. CODE § 290.110(d)(3) was recodified as 30 TEX. ADMIN. CODE § 290.110(d)(1)(C) effective January 9, 2008, by 33 Tex. Reg. 198.

² 30 TEX. ADMIN. CODE § 290.110(c)(5)(B) was recodified as 30 TEX. ADMIN. CODE § 290.110(c)(4)(A) effective January 9, 2008, by 33 Tex. Reg. 198.

IV. ORDER

1. It is, therefore, ordered by the TCEQ that SNI pay an administrative penalty as set forth in Section I, Paragraph six above. The payment of this administrative penalty and SNI's compliance with all the terms and conditions set forth in this Agreed Order resolve only the allegations in Section II. The Commission shall not be constrained in any manner from considering requiring corrective action or penalties for violations which are not raised here. Administrative penalty payments shall be made payable to "Texas Commission on Environmental Quality" and shall be sent with the notation "Re: SNI Corporation dba Broadway Food Mart, Docket No. 2004-0043-PWS-E" to:

Financial Administration Division, Revenues Section
Attention: Cashier's Office, MC 214
Texas Commission on Environmental Quality
P.O. Box 13088
Austin, Texas 78711-3088

2. SNI shall undertake the following technical requirements:
 - a. Immediately after the effective date of this Agreed Order, SNI shall begin monitoring the chlorine residual at representative locations in the distribution system at least once every seven days in accordance with 30 TEX. ADMIN. CODE § 290.110(c)(4)(A);
 - b. Within 15 days after the effective date of this Agreed Order, SNI shall begin weekly Residual Chlorine Testing in accordance with 30 TEX. ADMIN. CODE § 290.110(d)(1)(C);
 - c. Within 90 days after the effective date of this Agreed Order, SNI shall obtain an exception to 30 TEX. ADMIN. CODE § 290.41(c)(1)(A) (relating to well located near underground storage tanks), as required by 30 TEX. ADMIN. CODE § 290.39(l);
 - d. Within 90 days after the effective date of this Agreed Order, SNI shall obtain an exception to 30 TEX. ADMIN. CODE § 290.41(c)(1)(F) (relating to sanitary control easements), as required by 30 TEX. ADMIN. CODE § 290.39(l); and
 - e. Within 105 days after the effective date of this Agreed Order, SNI shall submit written certification and detailed supporting documentation, including photographs, receipts, and other records, to demonstrate compliance with Ordering Provision Nos. 2.a -d. The certification shall be notarized by a State of Texas Notary Public and include the following certification language:

"I certify under penalty of law that I have personally examined and am familiar with the information submitted and all attached documents, and that based on my inquiry of those individuals immediately responsible for obtaining the information, I believe that the submitted information is true, accurate and complete. I am aware that there are significant penalties for submitting false information, including the possibility of fine and imprisonment for knowing violations."

The certification shall be submitted to:

Order Compliance Team
Enforcement Division, MC 149
Texas Commission on Environmental Quality
P.O. Box 13087
Austin, Texas 78711-3087

and

Mr. Stephen Smith, Water Section Manager
Texas Commission on Environmental Quality
Houston Regional Office
5425 Polk Avenue, Suite H
Houston, Texas 77023-1486

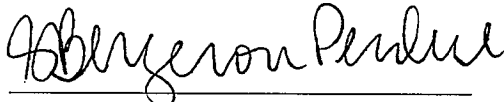
3. The provisions of this Agreed Order shall apply to and be binding upon SNI. SNI is ordered to give notice of the Agreed Order to personnel who maintain day-to-day control over the Facility operations referenced in this Agreed Order.
4. The Executive Director may grant an extension of any deadline in this Agreed Order or in any plan, report, or other document submitted pursuant to this Agreed Order, upon a written and substantiated showing of good cause. All requests for extensions by SNI shall be made in writing to the Executive Director. Extensions are not effective until SNI receives written approval from the Executive Director. The determination of what constitutes good cause rests solely with the Executive Director.
5. This Agreed Order, issued by the Commission, shall not be admissible against SNI in a civil proceeding, unless the proceeding is brought by the OAG to: (1) enforce the terms of this Agreed Order; or (2) pursue violations of a statute within the Commission's jurisdiction, or of a rule adopted or an order or permit issued by the Commission under such a statute.

6. This agreement may be executed in multiple counterparts, which together shall constitute a single original instrument. Any executed signature page to this Agreement may be transmitted by facsimile transmission to the other parties, which shall constitute an original signature for all purposes.
7. Under 30 TEX. ADMIN. CODE § 70.10(b) and TEX. GOV'T CODE § 2001.142, the effective date of this Agreed Order is the date of hand-delivery of the Order to SNI, or three days after the date on which the Commission mails notice of the Order to SNI, whichever is earlier. The Chief Clerk shall provide a copy of this Agreed Order to each of the parties.

SIGNATURE PAGE

TEXAS COMMISSION ON ENVIRONMENTAL QUALITY

For the Commission



For the Executive Director

10/9/06

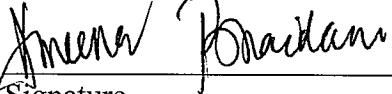
Date

I, the undersigned, have read and understand the attached Agreed Order. I represent that I am authorized to agree to the attached Agreed Order on behalf of the entity, if any, indicated below my signature, and I do agree to the terms and conditions specified therein. I further acknowledge that the TCEQ, in accepting payment for the penalty amount, is materially relying on such representation.

I also understand that my failure to comply with the Ordering Provisions, if any, in this order and/or my failure to timely pay the penalty amount, may result in:

- A negative impact on my compliance history;
- Greater scrutiny of any permit applications submitted by me;
- Referral of this case to the Attorney General's office for contempt, injunctive relief, additional penalties, and/or attorney fees, or to a collection agency;
- Increased penalties in any future enforcement actions against me;
- Automatic referral to the Attorney General's Office of any future enforcement actions against me; and
- TCEQ seeking other relief as authorized by law.

| In addition, any falsification of any compliance documents may result in criminal prosecution.



Signature

06/22/06

Date

AMEENA BHAIIDANI

Name (Printed or typed)

Authorized representative of

SNI Corporation dba Broadway Food Mart

President

Title